

Remarks and Arguments

Claims 3-50 are pending in the application. Claim 3 has been amended. No claims have been added or cancelled. Applicants note with appreciation the Examiner's indication of the Allowability of claims 6-10 and 21-50 in the Final Office Action dated December 27, 2006.

The Examiner maintains the rejection of claims 3-5 and 11-20 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,884,786 ("Valyi") in view of U.S. Patent No. 4,591,060 ("Tsukada"). The Examiner maintains the rejection of the Office Action dated March 30, 2006.

In response to Applicant's comments that Valyi does not teach sufficient expansion to at least partially crystallize the neck, the Examiner asserts that even if Valyi's expansion is minimal, Valyi allegedly "reads on applicant's broad term expansion recited in the claims."

While Applicants respectfully disagree, for the sole purpose of expediting prosecution, independent claim 3 has been amended to recite a neck "being at least partially crystallized by subjecting said neck to heating." Support for this amendment can be found in the specification at p. 6, ll. 11-16, which describes, for example, heating via a quartz lamp or a heated plug.

Applicants respectfully submit that neither Valyi nor Tsukada teaches the circumferential expansion and heating steps to partially recrystallize the neck, as recited. Moreover, there is no motivation or suggestion to combine the references teachings. Valyi does not teach sufficient expansion to achieve the partial crystallization, and Tsukada clearly teaches a neck that is not expanded.

The Examiner maintains that Tsukada discloses biaxial orientation of the neck at col. 4, ll. 31-64. But the Examiner completely ignores statements to the contrary in Tsukada, namely the description of the container of FIG. 1:

The neck section of the parison, held by the mold, is not oriented, and hence becomes the thick neck section of the blow-molded bottle-shaped container.

* * * *

When the preformed piece or parison is biaxially blow-molded, the neck section 4 is not oriented is therefore susceptible to crystallization and accordingly readily becomes brittle due to the crystallization, but since the neck section is thickened, it is firmly strengthened.

(*Id.* at col. 1, ll. 35-36 and col. 4, ll. 43-48; emphasis added.)

In the Advisory Action, the Examiner asserted that the application was not in condition for allowance because while Applicants allege that the prior art does not disclose biaxial orientation, such term is not recited in independent claim 3. In light of the above quotations from Tsukada, Applicants respectfully submit that Tsukada discloses and teaches the neck section of the parison is not oriented when the parison is biaxially blow-molded. Accordingly, independent claim 3 has been amended to recite "said neck being circumferentially expanded to orient said neck subsequent to molding." Support for this amendment can be found in the specification at p. 4, ll. 14-16, which states:

Expansion of the preform neck prior to or subsequent to blow molding the container body has the advantage of at least partially molecularly orienting the neck when the preform is of orientable construction such as PET.

Not only is the advantage of expansion and orientation not recognized in Tsukada, Tsukada directly teaches away from orienting the preform neck prior to or subsequent to blow molding the container by explicitly stating that the neck section is not oriented when the parison is biaxially blow molded. Thus, the combined teachings of Valyi and Tsukada fail to establish a *prima facie* case of obviousness with respect to independent claim 3 and dependent claims 4 and 5.

In view of these remarks and amendments, Applicants respectfully submit that the rejection has been overcome and respectfully request withdrawal of this rejection.

Reconsideration

It is believed that all claims of the present application are now in condition for allowance.

Reconsideration of this application is respectfully requested. If the Examiner believes that a teleconference would expedite prosecution of the present application the Examiner is invited to call the Applicants' undersigned attorney at the Examiner's earliest convenience.

Any amendments or cancellation or submissions with respect to the claims herein is made without prejudice and is not an admission that said canceled or amended or otherwise affected subject matter is not patentable. Applicants reserve the right to pursue canceled or amended subject matter in one or more continuation, divisional or continuation-in-part applications.

To the extent that Applicants have not addressed one or more assertions of the Examiner because the foregoing response is sufficient, this is not an admission by Applicants as to the accuracy of such assertions.

Please grant any extensions of time required to enter this response and charge any fees in addition to fees submitted herewith that may be required to enter/allow this response and any accompanying papers to our deposit account 02-3038 and credit any overpayments thereto.

Respectfully submitted,

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